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No. 233.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1956

UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA (UE), and LOCAL 1114 UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA (UE),

Petitioners,

v.

GOODMAN MANUFACTURING COMPANY and NATIONAL LABOR RELATIONS BOARD.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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GOODMAN MANUFACTURING COMPANY and NATIONAL LABOR RELATIONS BOARD.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

United Electrical, Radio and Machine Workers of America and Local 1114 United Electrical, Radio and Machine Workers of America pray that a writ of certiorari be issued to review the judgments of the United States Court of Appeals for the Seventh Circuit denying the petition of the National Labor Relations Board for enforcement of its order against the Goodman Manufacturing Co., and denying the motion of the United Electrical, Radio and Machine Workers of America, and Local 1114 for leave to intervene.

The Opinions Below

The first opinion of the court below (Appendix B, infra pp. 22-29) is reported at 227 F. 2d 465. The second opinion (Appendix B, infra pp. 30-37) is not yet officially reported. The opinion and order of the Board (Appendix C, infra pp. 38-43) is reported at 111 N. L. R. B. 369. The interim opinion of the Board (Appendix C, infra pp. 44-46) is not reported.

Jurisdiction

The first judgment of the Court of Appeals for the Seventh Circuit denying enforcement of the Board's order was entered November 10, 1955. The judgment denying the Union's motion for leave to intervene was entered April 6, 1956. The judgment after reargument upon the merits was entered June 15, 1956. The jurisdiction of this Court is invoked under 28 U. S. C. 1254, and Sections 10(e) and 10(f) of the National Labor Relations Act.

Questions Presented

1. Whether Section 9(h) of the National Labor Relations Act may constitutionally be applied to require as a precondition for union access to the Board's processes that officials of a union, who have no power by virtue of their union position to call or lead strikes, file non-Communist affidavits with the Board.

2. Whether a union may be held not to be in compliance with the filing requirements of the Act by reason of the failure of some of its officials to file non-Communist affidavits, without the union being afforded a hearing on the question of whether or not those officials are "officers" of the union.

3. Whether officials whom the constitution of a labor organization does not list among its "officers" are "officers" of the union within the meaning of Section 9(h) of the Act and the Board Regulations.

4. Whether a union, charging party before the Board, may intervene in an enforcement proceeding where its compliance status under Section 9(h) of the Act is in question.

Constitutional Provisions, Statutes and Regulations Involved

The constitutional provisions involved are the First and Fifth Amendments to the Constitution of the United States. Their relevant portions are as follows:

"AMENDMENT 1

> Congress shall make no law * * * abridging the freedom of speech; or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

"AMENDMENT 5

> * * * nor shall any person * * * be deprived of life, liberty, or property without due process of law."

Section 9(h) of the National Labor Relations Act as amended, 61 Stat. 136, 146, 65 Stat. 601, 602, 29 U. S. C. 159 (h) is set forth in the Appendix (*infra* p. 47). Sections 5(a) and 5(b) of the Administrative Procedure Act, 60 Stat. 237, 239; 5 U.S.C. 1004 is set forth in the Appendix (*infra* pp. 47-48). Section 102.13 of the Rules and Regulations of the National Labor Relations Board, Series 6, 16 F.R. 1934, 1938, 29 F.R. 102.13, is set forth in the Appendix (*infra* p. 48).

Statement

The Proceeding Below—This case arises in the context of an unfair labor practice proceeding commenced against the Employer, Goodman Manufacturing Co., on February 5, 1953, by a complaint charging it with refusal to bargain with the Union, United Electrical, Radio and Machine Workers of America (UE), and its Local 1150, the statutory collective bargaining agents of the Employer's production and maintenance employees (R. 106).[1] (The petitioner, Local 1114, is the successor to Local 1150.) At no time in this proceeding has it been held that the Employer was not guilty as charged in the complaint.

The questions presented here arise from the ruling of the court below that the Trustees of Union and the Secretaries of the Union District Councils (who had not filed the non-Communist affidavits required by Section 9(h) of the Act) were "officers" of the Union, and hence that the Union was not in full compliance with the filing requirements of Section 9(h) of the Act either at the time of certification by the Board, or at the time its unfair labor practice charges against the Employer were processed. Accordingly, the court below denied the Board's petition for enforcement and set aside the Board Order requiring the Employer to bargain with the Union.

The Employer first charged that the Union was not in full compliance with Section 9(h) by means of a motion filed with the Board at the start of the unfair labor practice proceeding (R. 111). This motion questioned the compliance status of both the Trustees and District Secretaries. The Board thereupon issued a notice to the Union, directing it to show cause why the Union should not be held out of compliance because of the failure of the persons elected to the position of Trustee to file the affidavits (R. 133). (The

[1] References to the printed Appendix below are preceded by the letter "R".)

Board never directed a hearing on the question of the District Secretaries.) The Union replied to the Board's notice by submitting an affidavit of its General Counsel (R. 134) and the Employer responded by a verified Reply Memorandum (R. 174). On August 6, 1953, the Board held the Union to be in compliance (R. 183), a ruling to which it subsequently adhered (R. 276).[2]

The Status of the Trustees—The Constitution of the Union provides in part as follows:

> "Article 5, Section A—The Officers of the United Electrical, Radio and Machine Workers of America (UE) shall be General President, General Secretary-Treasurer, Director of Organization, and a General Vice-President for each geographical district so agreed upon."

The duties of the trustees are limited to a quarterly audit of the records of the Union office, and to making an annual inventory of Union property and tabulating the results of Union referenda (Articles 9, 11; App. E, pp. 40-41 infra). The method of selection of Trustees (as provided by Article 9, Section A; App. E, p. 41 infra) differs substantially from that provided for selection of Officers (Article 5, Section B; App. E, p. 40 infra).

The Board's Ruling—On the basis of the above facts, the Board concluded that the Trustees were not officers of the Union within the meaning of the Act and the Board regulation. The Board stated:

> "Section 102.13 of the Board's Rules and Regulations provides, in part, that the term 'officer' for the purpose of Section 9(h) of the Act 'shall mean any person occupying a position identified as an office in the constitution of the labor organization * * *.'

[2] The Employer also raised the status of the Trustees and District Secretaries, by Answer (R. 130, 132) and at the hearing. Those objections appear to have been merely pro forma to preserve the record (R. 191).

> "* * * The Union contends, inter alia, that its constitutions clearly differentiate between Trustees and officers. We agree. We are of the opinion that only the officials referred to in the first sentence of the above Article 5, Section A, are officers."

The Board further stated that it had not considered the Employer showing with regard to the District Secretaries sufficient to merit further proceedings. Subsequently, the Board found the Employer had violated the Act by refusing to bargain with the Union (App. C, *infra*).

The Decisions of the Court of Appeals on the Merits—The court below did not reach the merits of the Board's unfair labor practice findings. Instead, it ruled that the Board was without jurisdiction to consider the case by reason of the failure of the Trustee and District Secretaries to file the affidavits. The court below held that these persons came within the Board Regulations as "persons occupying a position identified as an office in the constitution of the labor organization".

In its first opinion the court below held that since the positions of Trustee and District Secretary were established by the Union Constitution, the occupants of those positions were "officers" within the meaning of the Board Regulations even though "the International's Constitution does not confer the title 'officer' upon District Secretaries and Trustees or describe their respective positions as 'offices'" (App. B, infra, p. 27). In the court's opinion, this fact brought those persons within the scope of the holding of *A.C.A.* v. *Douds*, 339 U. S. 382, as persons, who, "as officers * * * direct union activities" (339 U. S. at p. 407) and persons who "hold official power" (Frankfurter, J., concurring at p. 418).

Following the decision of this Court in *N.L.R.B.* v. *Coca Cola Bottling Co. of Louisville*, 350 U. S. 264, the court below ordered reargument. It then withdrew its former opinion and substituted another in which it again denied enforcement of the Board's order.

In its second opinion the court again held that the positions involved were "identified" as officers within the meaning of the Board Regulation, even though they were not set out in the list of officers. The court now grounded this position on a holding that the term "identified" as used in the Board Regulations carried a broader meaning than would the term "designated". According to the court below, the fact that the officials involved, as well as "officers", were accorded "recognition" by the Union Constitution and the fact these positions were responsible ones, brought them within the Board Regulations which this Court approved in *Coca Cola*. The court distinguished *Coca Cola* on the ground that the positions there involved were not established by the constitution.

The Intervention Question—The Union, as charging party, had intervened in the Board proceeding and been made a party. Previous rulings of the Court of Appeals for the Seventh Circuit had made it clear that any effort to intervene in the enforcement proceeding would be futile. *Aluminum Ore Co.* v. *N.L.R.B.* (C. A. 7, 1942), 131 F. 2d 485; *Stewart Die Casting Co.* v. *N.L.R.B.* (C. A. 7, 1942), 132 F. 2d 801; *American Newspaper Publishers Association* v. *N.L.R.B.* (C. A. 7, 1951), 190 F. 2d 45. Accordingly, the Union did not seek to intervene prior to the first decision of the court below.

Subsequent to the first decision below, and within the time fixed by the court rules for a petition for rehearing, the Union filed a motion for leave to intervene and submitted a petition for rehearing. This motion was opposed both by the Employer and the Board. The Employer contended that such intervention was foreclosed under previous holdings of the court below, was untimely, and that the Union's position was adequately represented by the Board. The Board, on the other hand, contended that such intervention would "by according the charging party the status of a party in the court proceeding, put it in a position to

petition for certiorari against the wishes of the Board and thus deprive the Board of control over the litigation." [3]

On December 19, 1955, the court below denied the Union's motion.

Following the *Coca Cola* decision the Board moved to vacate the judgment below and for further consideration of the case. The Union also filed such a motion and again moved to intervene. The court below vacated its prior judgment and set the case on the docket for further hearing. At the same time, the Union's motion to intervene was denied "without prejudice to its right to appear as amicus curiae, file briefs and participate in any argument herein". Subsequently, the Union did file a brief amicus curiae and participate in the oral argument.

Reasons for Granting the Writ

The First Amendment Question

1. In *American Communications Association* v. *Douds*, 339 U. S. 382, the Court recognized that the limitations which Section 9(h) imposes upon the freedom of the millions of union members to choose their officers and upon the freedom of union officers to choose their political belief present a "grave and difficult problem" of the application of the First Amendment guarantee of political freedoms (339 U. S. at p. 393). As far as the constitutionality of 9(h) on its face was concerned, the court resolved these problems in favor of the statute. It held that Congress might, in the interest of protecting interstate commerce, impose the requirements of Section 9(h) upon union members and officers. This ruling, however, rested upon the Court's acceptance of the Board's argument that Section 9(h) was aimed at those persons who by virtue of their official positions might be possessed of both the "will and

[3] Board opposition to motion to intervene (p. 2).

the power" to call political strikes without advocacy or persuasion (339 U. S. at p. 396).

The opinions of the Court and of the individual Justices bristle with emphasis upon this factor as constituting the danger to which Congress had addressed itself. The opinions leave no doubt that it was the threat to interstate commerce, placed in the hands of union officers by their official power to call political strikes, which was the prime consideration in the Court's decision. See 339 U. S. at pp. 388, 391, 392, 393, 396, 400, 401, 404, 406, 407, 412 (Opinion of the Court); pp. 416, 417, 418 (Opinion of Justice Frankfurter); pp. 430, 431 (Opinion of Justice Jackson).

The instant case, however, presents no such picture. The duties of the Trustees have not the remotest bearing on, or connection with, the calling or operation of strikes—be they political or economic.[4] Their duties lie solely in the area of the safekeeping of Union finances and supervising the counting of the ballots in any recall referendum. This case thus raises the question of the constitutionality of Section 9(h) as a restriction on the First Amendment rights of union members and officials when *applied* to officials who have no power to affect interstate commerce. As this Court pointed out in *A.C.A.* v. *Douds*, this restriction upon the rights of millions of union members to choose their officials and the rights of those members to seek official posts or serve in them without limitation of their political beliefs or affiliations, raises constitutional issues of "manifest importance" (339 U. S. at p. 387).

The Denial of a Hearing

2. The decision of the court below that the Union was not in compliance because the District Secretaries had not filed the affidavits was made on a record in which no hear-

[4] As we argue below, petitioners do not believe that the record permits an evaluation of the duties and powers of the District Secretaries in the absence of a hearing.

ing was ever held on the status of the District Secretaries. The ruling below was therefore a plain denial to the Union of the Due Process guaranteed by the Fifth Amendment. Moreover, it violated the provisions of the Administrative Procedure Act and the National Labor Relations Act.

As a consequence of the ruling below, many thousands of employees in the electrical, radio and machinery industry, are threatened with the loss of their property rights as established by collective bargaining agreements and the entire industry is threatened with consequent industrial instability. As the affidavit of Julius Emspak (submitted in support of the Motion to Intervene below) shows, collective bargaining contracts throughout the industry are bottomed upon Board certifications. These contracts not only create property rights in the Union and the employees it represents, they are the essential foundation of the stability of industrial relations to which the whole Act is directed. The decision below destroys the foundation upon which these contracts, valuable property rights, rest. Such a deprivation of property rights cannot be effected without a hearing. *Joint Anti-Fascist Committee* v. *McGrath*, 341 U. S. 123.

The denial of a hearing deprived the Union of a substantial right. At such a hearing, the Union could easily have demonstrated that the duties of the District Secretaries differ significantly from those of the Union "officers"; that the District Secretaries had no power by virtue of their position to call or lead strikes; and that the whole treatment of those positions in the Union structure and history indicated that they were not "officers" within the meaning of the Act and Regulations.

The decision below, denying the Union a hearing on the question of the District Secretaries, conflicts in more than principle with the ruling of the Court of Appeals for the Third Circuit in *Marine Engineers Beneficial Association* v. *N.L.R.B.* (C. A. 3, 1953) 202 F. 2d 546. In that case, the Third Circuit held that the Administrative Procedure Act

(5 U. S. C. 1004), and the National Labor Relations Act required that the charging party be afforded a hearing before the Board before the complaint be dismissed. See also *Fay* v. *Douds* (C. A. 2, 1949), 172 F. 2d 720, 723. (To destroy a certification without a hearing "can plausibly be thought to be a denial of due process of law.")

The ruling of the court below when read with the decision of this Court in *N.L.R.B.* v. *Coca Cola Bottling Co. of Louisville,* results in an anomaly. Under the *Coca Cola* decision an employer can, as a matter of right, contest a union's compliance status and procure a hearing before the Board and judicial review of that hearing. On the other hand, under the ruling below, a union is not entitled to a hearing in which to protect its compliance status and that status may be arbitrarily destroyed by the court.

The Conflict with *N.L.R.B.* v. *Coca Cola Bottling Co. of Louisville*

This Court in *N.L.R.B.* v. *Coca Cola Bottling Co. of Louisville,* has recently upheld the Board's definition of the term "officers" as used in Section 9(h) as meaning those persons who hold positions identified as an office by the appropriate union constitution. The decision of the court below, holding the Trustees and District Secretaries to be "officers" of the Union, is in conflict with the decision of this Court in *Coca Cola,* and should be reversed. The court below misconstrues the Board's definition of "officers" which this Court approved and broadens the term "identified" beyond its proper meaning.[5] In so doing, the

[5] Had the term been restricted to the narrower limits which the Board intended, the holding below would have been impossible in view of Article 5(a) of the Union Constitution:

> "The officers of the United Electrical, Radio and Machine Workers, shall be the General President, General Secretary-Treasurer, Director of Organization, and a General Vice-President for each geographical district so agreed upon."

decision reopens the Pandora's box of time-consuming delays and frustrations of the Act which this Court sought to close by its decision in *Coca Cola*.

The first decision below confessedly did not follow the Board Regulation. The court's "constitutional test"—unlike the Board's—depended, not upon whether the union constitution identified the position as an "office" or its occupant as an "officer," but upon whether the position was established by the constitution; not upon the constitutional treatment of the position but upon its constitutional source. The second decision below only appeared to abandon this "constitutional test." It ushers the same test in through the back-door by raising an ambiguity from the fact that the constitution gives "recognition" to the positions here involved. It again relies upon the constitutional source, rather than the constitutional treatment of the positions involved. Moreover, the court below compounded its error by using the same test to resolve this "ambiguity" which this Court rejected in *Coca Cola*—the "functional" test of the duties of the position.[6] The holding is thus the same in both opinions: 9(h) reaches any position established by a union constitution whether or not it be denominated an "office".

The Board Regulations, like the Act itself, are designed to narrow the area of dispute in Board proceedings.[7] Contrary to the decision below, the word "identified" in the Board Regulation, approved in *Coca Cola*, has no broader meaning than "designated." The Board has consistently interpreted its own regulation as applying only to those persons designated as officers in the union constitution. In its 13th Annual Report (for the fiscal year 1948), the first year in which it administered the Labor Management Relations Act, the Board said:

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[6] The court below also relied, secondarily, upon the discussion at the 1952 union convention. It is submitted that this discussion is as compatible with the Union and Board position as with the Employer's.

[7] The legislative history showing the desire of Congress to limit disruption of proceedings by the raising of 9(h) questions was set out in the Board's brief in *Coca Cola* (pp. 20 ff).

> "If the persons who are, in fact, formally entitled 'officers' of a labor organization have filed the proper affidavits that organization is deemed to be in compliance with Section 9(h) as far as the Board is concerned" (p. 24).

The expansion of the Board's definition of "officer" by the court below to include persons not "formally entitled officers" is thus contrary to the intent of the regulation and does violence to its purpose.

The distinction which the union constitution makes between "officers" and "trustees" is not an ephemeral one. It is deep-rooted in the structure of the organization.[8] Under the Union constitution, trustees are in effect a membership committee chosen for the primary purpose of auditing the disbursements of union funds by union officers. This is in line with customary union practice. As Kosmetsky states in his book "Financial Reports of Labor Unions" (Division of Research, Harvard University Graduate School of Business Administration, 1950):

> "Usually unions that provide for only an internal audit of the financial records select an internal auditing committee from the membership, and, to insure the objectivity of the audit, exclude the union officers" (at p. 200).

The whole structure of the Union counterposes the Trustees against the "officers". Rather than being "officers" of the Union, the Trustees are their exact opposite. It will be noted in this regard that whereas the officers are elected by a plurality of the votes at the Convention, Trustees are chosen by a method calculated to insure representation of the whole membership (Article 9A, p. 50, infra).

The impact of this decision is not limited to this Union alone, great as that impact is. The Union's constitutional structure follows a pattern common to the labor movement.

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[8] As we have stated, we do not think the record permits a discussion of the duties of the District Secretaries.

Labor unions, like all voluntary fraternal associations have many posts. In addition to the customary posts of President, Secretary, etc., it is common to have numerous committees (sick committee, credit union committee, political action committee, etc.), all with their attendant chairmen and secretaries, as well as a host of other minor posts, any or all of which may be established by the constitution, to be filled by the members of the association. These posts vary in their importance, some being almost entirely honorific and some carrying with them the full executive power of the union. Under common union practice, only those positions which involve the exercise of primary responsibility for the management of the union are designated as "offices" in the union constitution and it is only for those positions that the 9(h) affidavits have been filed. The decision below thus has affected almost every union.[9] Since present day collective bargaining agreements are customarily bottomed upon Board certifications, the decision unsettles industrial relations nationally and jeopardizes a multitude of pending unfair labor practice and representation proceedings.

The Denial of Intervention

4. The ruling of the court below, denying the Union a right to intervene before it, is in conflict in principle with the decisions of the Court of Appeals for the District of Columbia on the general Federal law governing intervention, and, with other Courts of Appeals on the question of the rights of a charging party under the National Labor Relations Act.

In *Textile Workers Union of America* v. *Allendale Co.* (C. A. DC 1955), 226 F. 2d 765, the court (sitting in banc) held that a union might intervene in a District Court pro-

[9] It will be noted that the International Union of Electrical, Radio and Machine Workers (IUE, AFL-CIO) had not filed affidavits for its trustees (R. 138).

ceeding to review minimum wage determinations by the Secretary of Labor under the Public Contracts Act.[10] The court pointed out that even though the judgment might not be res adjudicata as to the union in a technical sense, in a practical sense the union was "bound" by the determination, and hence had an absolute right to intervene. It held that, in any event, the economic stake of the union in the outcome of the proceeding made the denial of intervention an abuse of discretion.

Wolpe v. *Poretsky* (C. A. D. C., 1944), 144 F. 2d 205, held that adjacent property owners, whose interests might be affected, should be permitted to intervene in an action against the Zoning Commission even though final judgment had been handed down and the time for filing a motion for new trial had expired.

The District of Columbia opinions are directly contrary to the ruling below denying the motion to intervene. In the *Textile Workers* case, as in this one, the union had initiated the administrative proceeding. In both cases, serious damage might be caused the union and its members by the decision below unless reversed. And in *Wolpe* v. *Poretsky*, as in this case, intervention was necessary to protect a right to appeal.

The Union's interest in this case could not be adequately protected by the Board. As the Board itself stated in opposing the intervention, the Board's decision to appeal is not based solely upon its view of the merits of the case, but upon its view of the "impact of the decision upon the policies of the Act." There is thus no guarantee that any petition for certiorari will be filed by the Board in this case. Further, it is highly unlikely that the Board will raise the issues of the political liberty and due process raised here. (The Union has raised them at each stage of the proceeding.) The Board did not raise them below. And the Board's administration of Section 9(h) has been

[10] 49 Stat. 2036-2040, 41 U. S. C. Section 33-45.

as much in the direction of an expansion of its power and jurisdiction as toward recognition of any limitation of its powers. Cf. *Farmer* v. *United Electrical Radio and Machine Workers of America* (C. A. D. C., 1953), 211 F. 2d 36; *N. L. R. B.* v. *Coca Cola Bottling Co. of Louisville*, supra.

In the *Textile Workers* case, the agency there argued that the interest of the union members was adequately represented by itself. The Court of Appeals nonetheless recognized that a party interested in the outcome of a proceeding should be permitted to "plead for themselves" (226 F. 2d at p. 765).

This Court has recognized that Rule 24 of the Federal Rules of Civil Procedure is not a "comprehensive inventory of the allowable instances for intervention." *Missouri Kansas Pipeline Co.* v. *U. S.*, 312 U. S. 502, 505. Petitioners believe that in every respect, except the forum of the District Court, the motion to intervene met the criteria of that rule. Certainly, it met what Professor Moore has described as the standard governing modern intervention practice, "the purpose of the courts to prevent their processes from being used to the prejudice of the rights of interested third persons." 4 Moore's Federal Practice 14 (2d Ed. 1950).

5. Although this Court has not ruled directly upon the right of a charging party to intervene in an enforcement proceeding under the Act, its rulings leave little doubt as to the existence of this right. In *International Union of Mine, Mill and Smelter Workers* v. *Eagle Picher Mining and Smelting Co.*, 325 U. S. 335, this Court upheld the right of the union (intervenor below) to seek review of a decision denying the relief sought by the Board, even though the Board did not seek review. Customarily, some Courts of Appeals have permitted a charging party to intervene in enforcement proceedings. Cf. *Eagle Picher Mining and Smelting Co.* v. *N.L.R.B.* (C. A. 8, 1941), 119 F. 2d 903; *Consolidated Edison Co.* v. *N.L.R.B.* (C. A. 2,

1938), 95 F. 2d 390. The Court of Appeals for the Seventh Circuit has however—in direct conflict with other Circuits—consistently refused to permit such intervention. *Aluminum Ore Co.* v. *N.L.R.B.* (C. A. 7, 1942), 131 F. 2d 485; *Stewart Die Casting Co.* v. *N.L.R.B.* (C. A. 7, 1942), 132 F. 2d 801; *American Newspaper Publishers Association* v. *N.L.R.B.* (C. A. 7, 1951), 190 F. 2d 45, certiorari denied 344 U. S. 812. The question here involved is of manifest importance in the administration of the Act. The plain conflict between the Circuits should be resolved by this Court.

The position of the court below results in an absurd procedural situation. It is uncontested that a charging party may appear in the Board proceeding and, under Section 10(f) of the Act, appeal a final order of the Board denying it the relief sought to a Court of Appeals. *Amalgamated Utility Workers* v. *Consolidated Edison Co.*, 309 U. S. 261, 264. It could not have been intended by the Act that a charging party might have the right to appeal as a party against an adverse ruling by the Board and yet be powerless to appear as a party to prevent an equally disastrous adverse ruling in the Court of Appeals or to appeal to this Court.

CONCLUSION

For the reasons stated it is respectfully submitted that this petition for a writ of certiorari should be granted.

Respectfully submitted,

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Dated: July 3, 1956.

APPENDIX A

Decrees Sought to be Reviewed

UNITED STATES COURT OF APPEALS

FOR THE SEVENTH CIRCUIT

Chicago 10, Illinois

April 6, 1956

Before HON. J. EARL MAJOR, *Circuit Judge*
HON. WALTER C. LINDLEY, *Circuit Judge*
HON. ELMER J. SCHNACKENBURG, *Circuit Judge*

[CAPTION.]

Motion of National Labor Relations Board to vacate the judgment in the above entitled case is allowed and the case is reinstated on the docket for further hearing and consideration. The motion of United Electrical, Radio and Machine Workers of America (UE), and Local 1114 United Electrical, Radio and Machine Workers of America (UE), filed March 8, 1956, is denied without prejudice to its right to appear as amicus curiae, file brief and participate in any oral argument herein if it sees fit.